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SUBJECT: President Tandja Assumes Emergency Powers, Opposition Calls
for His Resignation

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11. (U) Summary: On June 26, President Mamadou Tandja announced he would assume emergency powers and rule by decree. This came on the heels of the June 26 re-assertion by the Constitutional Court of the illegality of a proposed constitutional referendum to permit President Tandja to remain in power for three years and eliminate presidential term limits. The Front for the Defense of Democracy (FDD), a grouping of civil society, labor unions and political parties, has called the president's decision a "coup" and demanded his immediate resignation. Tandja remains defiant, and members of his Government have declared that both the legislative elections and constitutional referendum will go on as planned. End summary.

President Tandja Invokes Article 53

12. (U) On June 26, following the Constitutional Court's re-assertion of its June 12 ruling (reftel) that the proposed constitutional referendum was illegal and the June 19 failed meeting of the Council of the Republic, President Mamadou Tandja announced that he would assume emergency powers. During a nation-wide radio and television broadcast on the Tele-Sahel evening news, President Tandja declared he was obliged to invoke Article 53 of the constitution to take extraordinary executive measures to "ensure the continuity of public services through the issuance of ordinances and decrees."

Translation of Niger's Constitution: Article 53

13. (U) The following is a translation of Article 53 of the current constitution:

(Begin text)

When the institutions of the Republic, the independence of the Nation, the integrity of the national territory, or the implementation of international commitments are threatened in a serious and immediate manner and that regular functioning of constitutional public authorities is interrupted, the President of the Republic shall take exceptional measures as required by these circumstances after consulting the Prime Minister, the President of the National Assembly, the President of the Constitutional Court, and the President of the Supreme Court.

He then informs the Nation via an address. The National Assembly

convenes ipso jure when it is not in session. It cannot be dissolved during the execution of exceptional powers.

These measures shall be inspired by the will to provide constitutional public authorities, in a minimal time frame, with the means of accomplishing their mission.

The National Assembly shall assess, to the absolute majority of its members, the duration for the execution of exceptional powers, and terminate them in case of abuse.

(End text)

Conditions of Article 53 Are Not Met

14. (U) It is clear that all of the necessary conditions to invoke Article 53 have not been met; such would require that the opinions of the presidents of the Constitutional Court, Supreme Court, and National Assembly be considered, which has not occurred. Furthermore, because President Tandja dissolved the National Assembly on May 25, there is no legislative body available to assess the situation and consent to conferring exceptional powers, which the constitution clearly requires.

Opposition Group Calls for Presidents' Resignation

15. (U) On June 27, the FDD issued a statement in which it said that the president's decision was tantamount to a coup. The FDD denounced the president's bid as yet another violation of the constitution, and stated that the president was liable to application of Article 42.2-3 of the constitution, which concerns impeachment, and demanded his immediate resignation. In addition,

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FDD called upon defense and security forces to refrain from executing the president's "illegal orders" as provided by Article 13 of the constitution and its implementing laws.

Niger's Minister of Interior Responds

16. (U) On June 28, the Minister of Interior, Public Security and Decentralization, Albade Abouba, who holds rank as minister of state, responded that the opposition was not qualified to request the resignation of the president. He added, "It was a slip of the tongue." Albade said, however, that "those who made such a statement would bear responsibility thereof and assume the consequences of their acts." Asked about the president's plans for a referendum in order to remain in power, Albade stated that the referendum will take place on August 4, as planned. When reminded that the CENI had removed the referendum from its timeline in compliance with the Constitutional Court's ruling, Albade retorted that the CENI organizes elections when asked by the government, but did not have the authority itself to determine the schedule of elections. When questioned as to whether a civilian coup d'etat had occurred, Albade responded to the effect that if the constitution permits a coup d'etat then so be it.

Comment

17. (SBU) President Tandja appears to be enacting the final stages of his plan to remain in power by riding roughshod over the constitution, political parties, civil society, and the nation's largely illiterate populace. He has failed to apply Article 53 fully, and has used portions to justify his assumption of emergency powers. President Tandja's continued manipulation of the constitution is not a surprise, but reflects the weakness of his political position. On June 29, African Union (AU) Chairman Jean Ping said that the AU had sent a delegation to Niger to reflect its grave concerns about the situation in Niger. President Tandja's plan for a constitutional referendum has already received condemnation from members of his own ruling political party, the Economic Community of West African States (ECOWAS), the

international community, and most importantly, a large segment of the Nigerien people. End comment.

18. (U) Minimized considered

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